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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,170	10/21/2005	Masayuki Kashimura	10936-92	1972
24256	7590	10/07/2008	EXAMINER	
DINSMORE & SHOHL, LLP 1900 CHEMED CENTER 255 EAST FIFTH STREET CINCINNATI, OH 45202				KRUER, KEVIN R
1794		ART UNIT		PAPER NUMBER
10/07/2008		MAIL DATE		DELIVERY MODE
				PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/554,170	KASHIMURA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	KEVIN R. KRUER	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/08; 01/06</u> .   | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statements filed 02/06/08 and 01/2/7/06 have been fully considered. Initialed copies of said IDSs are enclosed herein.

### ***Specification***

The first line of the specification should be amended to reference the fact that the current application is a national stage filing of PCT/JP2004/005995.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO99/52973 (herein referred to as Ohba) in view of Bekele (US 5,482,770). NOTE: US 6,605,344 is herein relied upon as an English translation of the WO document.

Ohba teaches a gas barrier film which is produced by applying a metallic compound to the surface of a poly(meth)acrylic polymer layer (abstract). The metallic compound may be utilized alone or compounded with a resin (col 3, lines 50+). The metallic compound may comprise an alkaline earth metal or transition metal having an

oxidation number of +2 (col 7, lines 22-25). The thickness of the poly(meth)acrylic layer is 0.1-50um (col 6, lines 59+). The metallic compound is applied in amounts of 0.03-20g/square meter (col 8, lines 21+). A polymer layer may be applied to the metallic compound layer (col 10, lines 26+) and a heat sealable layer may be applied to said outer polymer layer (col 10, lines 43+). Herein, the polymer layer is herein understood to read on the claimed base film and the heat sealable layer is understood to read on the claimed heat sensitive tackifier of claim 18 and the additional layer of claim 9. The film is used to package materials (col 10, lines 63+-herein understood to read on the claimed label and packaging embodiments of claims 17-20) and meets the claimed barrier properties (see Table 1).

Ohba does not teach the film should be heat shrinkable. However, Bekele teaches it is desirable for barrier packaging films to be heat shrinkable. Said films are made heat shrinkable by orienting said film and then heating the film so that it returns to its pre-oriented state. Shrink is directly proportional to the degree of orientation (col 1, lines 55+). Thus, it would have been obvious to one having ordinary skill in the art to orient the film and make it heat shrinkable because heat shrinkability is desired in the barrier packaging art. Furthermore, it would have been obvious to control the degree of orientation in order to obtain the desired level of heat shrinkage.

With regards to claim 5, Ohba does not teach the claimed relative thicknesses. However, it would have been obvious to the skilled artisan to vary the relative thicknesses of the layers taught in Ohba in order to optimize the film's properties and processability according to the desired end use of the film.

With regards to claim 11, said property is understood to be inherent to the film taught in Ohba.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN R. KRUER whose telephone number is (571)272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin R Kruer/  
Primary Examiner, Art Unit 1794